

Appl. No. 10/827,087
Atty. Docket No. 9607
Amendment dated September 25, 2006
Reply to Office Action of July 18, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1-5 and 8-13 are pending in the present application. No additional claims fee is believed to be due.

Claims 1 and 13 have been amended to more clearly define the disposable absorbent article and method in accordance with the teachings of the specification, for example, at page 13, lines 20-27. Claims 6 and 7 have been canceled.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §102

Claims 1, 8 and 13 have been rejected under 35 USC §102(b) as being anticipated by Olson et al (WO 00/76442 A1) (hereinafter "Olson"). The Office Action asserts that Olson teaches a disposable absorbent article and method of making the same comprising a liquid pervious topsheet, a liquid impervious backsheet that is partially joined to the topsheet, an absorbent core disposed at least partially between the topsheet and the backsheet, and a wetness indicator disposed between the core and the backsheet and in liquid communication with the core; the wetness indicator comprising a hidden central graphic and a background graphic wherein the background graphic comprises at least one responsive color composition and that, upon wetting, exhibits a visible change that is selected from the group consisting of a color change, a graphic change, and combinations thereof and wherein the hidden graphic is revealed. Moreover, the Office Action asserts that Olson teaches a second color change element as well.

However, as will be set forth in detail below, it is believed that the disposable absorbent articles defined by claim 1 and the method defined by claim 13 are not anticipated by Olson. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Olson discloses a disposable absorbent article that includes permanent character graphics and active object graphics. The active object graphics of Olson make up the wetness indicator because they are constructed to disappear or appear when contacted with urine (urine soluble inks), while the permanent character graphics do not

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substantially change when insulted with urine (non-urine soluble inks). Further, Olson teaches that the wetness indicator (active object graphics) and the permanent character graphics are printed on physically different parts of the disposable absorbent article (See Fig. 1). Irrespective of these teachings, however, the reference fails to teach or suggest a wetness indicator, like Applicant's that comprises both a permanent color composition (i.e. central graphic) and a responsive color composition (i.e. background graphic) that upon wetting exhibits a visible change to reveal the previously hidden background graphic as required by claims 1 and 13. Rather, the reference teaches one or more active graphics that when contacted with fluid appear or fade to match the color of the outer cover. There is no mention or teaching by Olson that the active object graphic disclosed therein hides the permanent character graphics so that upon wetting, the permanent character graphic is revealed. In contrast, the permanent character graphics of Olson are located separate from the active object graphics and are always visible.

Anticipation under 35 U.S.C. 102 requires the disclosure in a single prior art reference of each element of the claims under consideration, *Alco Standard Corp. v. TVA*, 808 F.2d 1490, 1 U.S.P.Q.2d 1337 (1341) (Fed. Cir. 1986). Because Olson fails to teach every element of independent claims 1 and 13, Applicant asserts that independent claims 1 and 13 are in condition for allowance. Further, because claim 8 depends from claim 1, it too is not anticipated by Olson and therefore, is in condition for allowance.

Rejection Under 35 USC §103(a) Over Olson in view of Baker, Ball, and Ito

Claims 2-7 and 9-12 have been rejected under 35 USC §103(a) as being unpatentable over Olson as applied to claims 1, 8 and 13, and further in view of Baker et al (USP 3675654; hereinafter "Baker"), Ball (USP 4909879), and Ito et al. (USP 5595754; hereinafter "Ito"). The Office Action asserts that Olson does not teach the specific types/forms of pigments, dyestuffs, solvents, or a varnish coating but points out that these components are commonly issued in a wide variety of combinations in textile graphics production and in changeable graphics/indicators in absorbent articles. Thus, the Office looks to Baker as teaching a varnish coating used to coat a moisture-actuated indicating agent, Ito et al. as teaching a non-aqueous solvent, and Ball as teaching the use of soluble dyestuff. The Office reasons that it would have therefore been obvious to one of ordinary skill in the art to add the component materials of the secondary references to make the graphics of Olson in order to provide very well known components of graphics/indicator/dye formation.

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In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.* Applicant respectfully traverses this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed above, Olson alone fails to teach or suggest a wetness indicator that comprises both a permanent color composition (i.e. central graphic) and a responsive color composition (i.e. background graphic) that upon wetting exhibits a visible change to reveal the previously hidden background graphic as required by claims 1 and 13. Now, Baker relates to disposable diapers, sanitary napkins, bandages and the articles, comprising an absorbent pad disposed on a translucent back sheet of water impervious material contain a moisture-actuated indicating agent. The reference, however, does nothing to supplement Olson's failure to teach or suggest a wetness indicator comprising both a permanent color composition and a responsive color composition. Similarly, Ito, which relates to a sheet for a pet animal to be used for checking urine of the pet animal for physical examination, does not remedy this failed teaching either. In fact, Ito's disclosure is in no way directed to the graphic inclusive absorbent articles of the present invention, let alone Applicant's specific combination of a permanent color composition and a responsive color composition.

Moreover, Ball discloses a process for marking a diaper fabric which comprises applying to the fabric one or more images by means of an ink jet printing technique during the fabrication of the diaper from its component materials. In a preferred embodiment, the reference teaches that the image is formed from a water-soluble dyestuff. Again, this reference also fails to teach or suggest the limitations missed by Olson. That is, despite the reference's teaching of the use of a water-soluble dyestuff to form images on a diaper fabric, there remains no teaching or suggestion of the particular type of wetness indicator required by claim 1. It is clear that since this fundamental limitation is not taught or suggested by the primary or any one of the secondary references that the present invention could not have been rendered obvious at the time of its invention by a combination of the cited references.

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References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Because the cited combination fails to teach all of the claim limitations of amended claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claims 2-5 and 9-12 depend either directly or indirectly from claim 1, the cited reference also fails to teach all of their claim limitations. Therefore, Applicant asserts that claims 2-5 and 9-12 are nonobvious over the cited combination and are in condition for allowance.

Conclusion

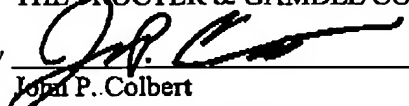
In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under §§102(b) and 103(a). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-5 and 8-13 is respectfully requested.

Respectfully submitted,

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